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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,783	08/07/2001	Jacky G. Duchamp	ACSC-60113	5784

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EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

1641

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/924,783

Applicant(s)

DUCHAMP, JACKY G.

Examiner

Ann Y. Lam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 10 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bazell et al., 3,884,242. Bazell et al. discloses a catheter shaft (2) having an inflation lumen (9), a guidewire receiving lumen (29) extending to a port (near 25) at the catheter shaft distal end and an inflation lumen (9), the guidewire receiving lumen (29) being in communication with a port (near 25); a balloon (16) having a proximal balloon shaft section adjacent the balloon proximal end, and a distal balloon shaft section adjacent the balloon distal end and being adhesively secured to the catheter, see column 7, lines 42-50, and column 10, lines 41-44; the balloon distal shaft section (45) having an outer surface tapering distally; and a tip member (19) having a proximal-most end (22) and a distal-most end (25), an outer surface tapering distally to a smaller outer diameter from the proximal-most end of the distal tip member toward the distal-most end of the distal tip member, see column 8, lines 6-12, and lines 47-49, a lumen in fluid communication with the catheter shaft guidewire receiving lumen (see Figure 3), and a proximal portion adhesively secured to the balloon distal shaft section, see column 8, lines 50-61, and the catheter shaft, see column 7, lines 64-67.

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As to claim 2, the catheter shaft (2) extends distally beyond the balloon distal end, see Figure 7.

As to claim 3, the tip member proximal end forms a butt-joint with the balloon distal shaft section, see column 10, lines 35-37, and see column 12, lines 39-40.

As to claim 4, the tip member proximal ends (36) extends proximally over the distal end of the catheter shaft, see Figure 7.

As to claim 11, the adhesive for forming the adhesive seal between the balloon distal shaft section and the catheter shaft extends along the length of the balloon distal shaft section, see column 7, lines 42-50, and see reference number 17 and 17', in Figures 3 and 7.

As to claim 12, the adhesive is capable of being cured, see column 7, lines 64-67.

As to claims 13 and 14, Bazell et al. discloses the step of curing the adhesive to form the catheter assembly in column 7, lines 42-47. Also, the tip member is bonded to the balloon distal shaft section, see column 8, lines 46-57, and see also column 7, lines 42-51 and column 5, lines 37-38.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazell et al., 3,884,242.

Bazell et al. discloses the invention substantially as claimed. However, Bazell et al. does not disclose the length that the distal end of the catheter shaft extends distally beyond the balloon distal end, nor the length that the proximal end of the tip member extends distally over the catheter shaft as claimed by Applicant. However, Bazell et al. teaches that various modifications within the scope of the invention can be made by one of ordinary skill in the art without departing from the spirit thereof, see column 14, lines 5-8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the Bazell et al. device with the various lengths as claimed by Applicant, as modifications that are within the scope of the invention as taught by Bazell et al.

#### ***Allowable Subject Matter***

Claims 10 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the combination of elements including a catheter having a distal tip member having a proximal-most end and a distal-most end, and outer surface tapering distally from the proximal-most end toward the distal-most end, a lumen in fluid communication with the catheter shaft guidewire receiving lumen, and a proximal portion adhesively

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secured to a balloon distal shaft section and catheter shaft, and an outer tubular member defining the inflation lumen and the inner tubular member extending through the balloon interior and extending distal to the balloon distal end, was not found in the prior art search.

Also, the combination of elements including a catheter having a distal tip member having a proximal-most end and a distal-most end, and outer surface tapering distally from the proximal-most end toward the distal-most end, a lumen in fluid communication with the catheter shaft guidewire receiving lumen, and a proximal portion adhesively secured to a balloon distal shaft section and catheter shaft, and wherein the distally tapering outer surface of the balloon distal shaft section and the distal tip member are aligned and taper at the same angle was not found in the prior art search.

### ***Response to Arguments***

Applicant argues that Bazell et al. does not teach that tip (19) tapers distally from the proximal-most end toward the distal end. Upon a closer look at Bazell et al., Examiner asserts that Bazell et al. teaches that tip (19) tapers distally from the proximal-most end (22) toward the distal end (25), see column 8, lines 6-12, and lines 47-49.

Applicant's arguments with respect to claim 10 have been fully considered and are persuasive. The rejection of claim 10 has been withdrawn.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on M-F, 11:00-6:30, and Sat. or Sun. 1:00-6:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (703)305-3399. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-4242 for regular communications and (703)308-4426 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

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A.L.   
July 13, 2003

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
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07/14/03